IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9959 of 2000

For Approval and Signature:

HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SONABEN MANGALBHAI & 2 - Petitioner(s)
Versus
COMPETENT AUTHORITY AND DY COLLECTOR & 2 - Respondent(s)

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Appearance :
MR MP PRAJAPATI for Petitioner(s) : 1 - 3.
GOVERNMENT PLEADER for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 09/10/2007

ORAL JUDGMENT

1. By this petition under Articles 226 and 227 of the Constitution of India, the petitioners have challenged the order dated 12.9.1983 passed by

the Competent Authority and Deputy Collector, Vadodara under section 8(4) of the Urban Lands (Ceiling and Regulation) Act, 1976 (the Act) (Annexure-D); the order dated 15.3.1999 passed by the Urban Land Tribunal in appeal; the order dated 19.4.1999 passed by the Urban Land Tribunal (Annexure-G) on the petitioner's application for review as well as entries No.1759, 2171, 2368-3 and 3119.

2. Subsequently the petitioners have amended the petition and prayed for the following relief:

"13(A) Your Lordships will be pleased to issue a writ of certiorari or any other appropriate writ, order or direction, to quash and set aside all proceedings under sections 10(1), 10(2), 10(3), 10(4), 10(5) and 10(6) of the ULC Act of 1976 undertaken in pursuance of the order Ann.D dated 12.9.83 and be pleased to set aside the entries posted in the record of rights by posting Entries Nos.1759, 2171, 2368-3 and 3119 and be pleased to hold that the petitioners continued to hold the possession of the entire piece of land admeasuring 4950 sq. mtrs. Bearing S.No.563 of Village Danteswar, District Vadodara and be pleased to hold that the ULC Repeal Act of 1999 applies to the facts of this case and be pleased to hold that the petitioners continued the ownership of occupancy rights of the land bearing S.No.563 and be pleased to restore the original

possession of the land as it stood on 17.2.1976."

3. Heard Mr. M.P. Prajapati, learned Advocate for the petitioners and Mr. A.J.Desai Learned Assistant Government Pleader for the respondents.

4. Mr. M.P. Prajapati, learned Advocate for the petitioner has submitted that the order dated 12.9.1983 pursuant to which further proceedings under the Act had been taken has been quashed and set aside by the State Government by the order dated 27.8.1991, hence, all the proceedings taken pursuant to the said order would stand nullified, and fresh proceedings were required to be undertaken in accordance with the said order. It was submitted that after the passing of the order dated 27.8.1991, possession of the lands declared excess vacant by the said order has not been taken over under the provisions of the Act. In the meanwhile the Act has been repealed and by virtue of the provisions of section 3 and 4 of the Urban Land Ceiling and Regulation) Repeal Act, 1999 (the Repeal Act) the proceedings would stand abated as possession of the lands declared excess vacant has not been taken over.

5. The respondents do not dispute this position. Mr. A. J. Desai, learned Assistant Government

Pleader, has on instructions of Mr. B.A. Rohit, Deputy Mamlatdar, Collector's Officer, Baroda, who is present in the court, stated that pursuant to the order dated 27.8.1991 passed by the State Government under section 34 of the Act, further proceedings had been taken till the stage of issuance of Notification under section 10(3) of the Act on 14.6.1996. However, further proceedings for taking over possession of the lands declared excess vacant had not been taken.

6. Section 4 of the Repeal Act, reads as under:

> *"**4. Abatement of legal proceedings.-** All proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, Tribunal or any authority shall abate:*
>
> *Provided that this section shall not apply to the proceedings relating to Sections 11, 12, 13 and 14 of the principal Act insofar as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority."*

7. In the light of the facts noted hereinabove and having regard to section 4 of the Repeal Act, the proceedings under the Act abate. Nothing more is required to be done in this case. In this view of the matter, the impugned orders as well as the order dated 27.8.1991 passed by the

State Government under section 34 of the Act, will not have any effect and shall not remain in operation and all proceedings taken pursuant to the said orders also shall not remain in operation.

8. The petition, is accordingly, disposed of as having abated. Rule is discharged with no order as to costs.

9. Needless to state that as all proceedings taken pursuant to the impugned orders will not have any effect and shall not remain in operation, the mutation entries No.1759, 2171, 2368/3 and 3119 made in the Revenue Record pursuant to the impugned orders shall also no longer remain in operation and necessary mutation entries shall be made in the Revenue Record accordingly.

[HARSHA DEVANI, J.]

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